

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:)	Docket HWCA 01/02 - 3004
)	
Environmental Oil)	STIPULATION AND ORDER
Processing Technology)	
2306 Magnolia Street)	Health and Safety Code
Oakland, California 94607)	Section 25187
)	
EPA ID No. CAL 000161741)	
)	
Respondent.)	
_____)	

The State Department of Toxic Substances Control (Department) and Environmental Oil Processing Technology (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order issued by the Department on September 12, 2001. (Attached as Exhibit 1.)
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health and Safety Code section 25187.
4. Respondent waives any right to a hearing in this matter.
5. This Order shall constitute full settlement of the violation alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.
6. Respondent admits the allegation made in the Enforcement Order dated September 12, 2001.

SCHEDULE FOR COMPLIANCE

7. Respondent shall comply with the following:

7.1. Respondent shall pay the Department a total sum of fifteen thousand dollars (\$15,000) in penalty.

7.2. Submittals: All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Roberto Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

7.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

7.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified; or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

7.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

7.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

7.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the

progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

7.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

7.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 9.3 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

7.11. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

7.12. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

7.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total sum of fifteen thousand dollars \$15,000, in penalty. The penalty shall be paid in four (4) installments. Penalty payment installments are due and payable on December 1, 2001 in the amount of \$2,500, February 1, 2002 in the amount of \$4,000, April 1, 2002 in the amount of \$4,000 and June 1, 2002, in the amount of \$4,500. Any installment payment which is received by the Department after the 15th day of the month in which it is due is subject to a penalty in the amount of \$500, which penalty shall be paid by Respondent no later than the due date of the next installment payment. If Respondent is late in making two (2) or more payments, or fails to make full installment payment within thirty (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalty immediately due and owing. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher in the form set forth in Exhibit 2 attached hereto and incorporated herein by reference, to the Department at the following address:

Department of Toxic Substances Control
Accounting Office
1001 I Street
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Roberto Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection, including attorney's fees.

OTHER PROVISIONS

9.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

9.3. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

9.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

9.7. Notice of Disposal: Respondent shall, by certified mail, return receipt requested, notify the following persons of violation number in the Order:

Dated: [12/06/01]_____

[original signed by Randall Blackburn]_____
Signature of Respondent's
Representative

[Randall Blackburn, E.O.P.T. Oil Recovery Inc.]
Typed or Printed Name and Title of
Respondent's Representative

Dated: [12/07/01]_____

[original signed by Robert Kou]_____

Roberto Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances
Control
Glendale Office